

Union Calendar No. 204

108TH CONGRESS
1ST SESSION

H. R. 1204

[Report No. 108-347]

To amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2003

Mr. SOUDER introduced the following bill; which was referred to the Committee on Resources

NOVEMBER 4, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 11, 2003]

A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LEASES, PERMITS, AND CONTRACTS FOR**
 4 **BUILDINGS, FACILITIES, AND PROPERTIES IN**
 5 **THE NATIONAL WILDLIFE REFUGE SYSTEM.**

6 *(a) IN GENERAL.—The National Wildlife Refuge Sys-*
 7 *tem Administration Act of 1966 (16 U.S.C. 668dd et seq.)*
 8 *is amended by—*

9 *(1) striking section 6 (relating to amendments to*
 10 *other laws, which have executed);*

11 *(2) redesignating section 5 (16 U.S.C. 668ee) as*
 12 *section 6; and*

13 *(3) inserting after section 4 the following:*

14 **“SEC. 5. CONCESSION CONTRACTS.**

15 *“(a) CONTRACT REQUIREMENT.—(1) The Secretary*
 16 *shall not authorize a person to use any land or water in*
 17 *the System for any activity described in subsection (b), ex-*
 18 *cept under a contract that complies with the requirements*
 19 *established under subsection (c).*

20 *“(2) The Secretary may not award a contract required*
 21 *under this subsection except under a competitive bidding*
 22 *process.*

23 *“(3) This subsection does not apply with respect to any*
 24 *administrative site, visitors facility, or revenue producing*
 25 *visitor service mandated or authorized pursuant to section*

1 1306 or 1307 of the Alaska National Interest Lands Con-
 2 servation Act (16 U.S.C. 3196, 3197).

3 “(b) COVERED CONCESSION ACTIVITIES.—(1) The ac-
 4 tivity referred to in subsection (a) is any commercial activ-
 5 ity conducted to provide accommodations, facilities, or serv-
 6 ices to members of the public who are visiting lands or wa-
 7 ters in the System, for the purpose of providing such visitors
 8 recreational, educational, or interpretive enjoyment of lands
 9 or waters in the System.

10 “(2) Such activity does not include—

11 “(A) any activity carried out under a procure-
 12 ment contract, grant agreement, memorandum of un-
 13 derstanding, or cooperative agreements;

14 “(B) the performance of volunteer services;

15 “(C) any activity by a governmental entity;

16 “(D) the operation of a bookstore in a refuge fa-
 17 cility by a national wildlife refuge Friends organiza-
 18 tion; and

19 “(E) those revenue producing visitor services, as
 20 that term is used in sections 36.37 and 36.41 of title
 21 50, Code of Federal Regulations, provided within any
 22 national wildlife refuge area in Alaska.

23 “(c) STANDARDIZED CONTRACT.—(1) The Secretary,
 24 acting through the Director, shall issue regulations that im-
 25 plement this section.

1 “(2) *Regulations under this subsection shall authorize*
 2 *a contract to use a provision other than those specified, by*
 3 *the Secretary as part of a standardized contract only if—*

4 “(A) *the provision addresses extenuating cir-*
 5 *cumstances that are specific to a refuge or the con-*
 6 *tract; and*

7 “(B) *the provision is approved by the Secretary*
 8 *in writing.*

9 “(3) *The Secretary shall require in each contract pro-*
 10 *visions that require that any activity conducted in the Sys-*
 11 *tem under the contract—*

12 “(A) *must be a compatible use; and*

13 “(B) *must be designed to—*

14 “(i) *conserve the natural and cultural re-*
 15 *sources of the System;*

16 “(ii) *facilitate the enjoyment of the lands*
 17 *and waters of the System by visitors to the Sys-*
 18 *tem; and*

19 “(iii) *enhance such visitors’ knowledge of*
 20 *the natural resources of the System.*

21 “(d) *MAINTENANCE AND REPAIR.—(1) Notwith-*
 22 *standing any other provision of law, the Secretary shall in-*
 23 *clude, in each contract that authorizes a person to use any*
 24 *land or water in the System for any activity described in*
 25 *subsection (b), provisions that—*

1 “(A) authorize the person to maintain or repair
2 any improvement on or in such land or water that
3 the person is authorized to use for such activity; and

4 “(B) treat costs incurred by the person for such
5 maintenance or repair as consideration otherwise re-
6 quired to be paid to the United States for such use.

7 “(2) This subsection does not authorize any mainte-
8 nance or repair that is not directly related to an activity
9 described in subsection (b) that is authorized by the con-
10 tract.

11 “(3) The United States shall retain title to all real
12 property that is maintained or repaired under this sub-
13 section.

14 “(e) NO COMPENSABLE INTEREST.—Nothing in this
15 Act shall be considered to convey to any person any right
16 to compensation for—

17 “(1) the value of any maintenance activities, re-
18 pairs, construction, or improvements on or in land or
19 water in the System; or

20 “(2) buildings, facilities, fixtures, and non-mov-
21 able equipment that the person is authorized to use
22 under this Act.

23 “(f) EXPENDITURE OF FEES AND OTHER PAY-
24 MENTS.—(1) Amounts received by the United States as fees
25 or other payments required under any agreement, lease,

1 *permit, or contract for use of real property located in an*
2 *area in the System, other than lands withdrawn for Native*
3 *selection pursuant to the Alaska Native Claims Settlement*
4 *Act (43 U.S.C. 1601 et seq.) shall be available to the Sec-*
5 *retary for expenditure in accordance with this subsection,*
6 *without further appropriation.*

7 “(2) *Amounts available for expenditure under this sub-*
8 *section may only be used—*

9 “(A) *at the refuge or refuge complex with respect*
10 *to which the amounts were received as fees or other*
11 *payments;*

12 “(B) *to increase the quality of the visitor experi-*
13 *ence; and*

14 “(C) *for purposes of—*

15 “(i) *backlogged repair and maintenance*
16 *projects (including projects relating to health*
17 *and safety);*

18 “(ii) *interpretation, signage, habitat, or fa-*
19 *cility enhancement; or*

20 “(iii) *administration of agreements, leases,*
21 *permits, and contracts from which such amounts*
22 *are derived.*

23 “(3) *Paragraph (1) shall not affect the application of*
24 *the Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s),*
25 *commonly referred to as the Refuge Revenue Sharing Act,*

1 *to amounts referred to in paragraph (1) that are not ex-*
 2 *pend by the Secretary under paragraph (1).”.*

3 *(b) APPLICATION.—Section 5(a) of the National Wild-*
 4 *life Refuge System Administration Act of 1966, as amended*
 5 *by this section, shall apply only with respect to a concession*
 6 *that is—*

7 *(1) first awarded after the date of the publica-*
 8 *tion of regulations under section 5(c) of the National*
 9 *Wildlife Refuge System Administration Act of 1966,*
 10 *as amended by this section; or*

11 *(2) renewed after the end of the 3-year period be-*
 12 *ginning on the date of the enactment of this Act.*

13 *(c) DEADLINE FOR REGULATIONS ESTABLISHING PRO-*
 14 *GRAM REQUIREMENTS.—The Secretary of the Interior shall*
 15 *issue regulations under section 5(c) of the National Wildlife*
 16 *Refuge System Administration Act of 1966, as amended by*
 17 *this section, by not later than 18 months after the date of*
 18 *the enactment of this Act.*

19 *(d) COMPREHENSIVE CONSERVATION PLAN REQUIRE-*
 20 *MENT.—Section 4(e) of the National Wildlife Refuge System*
 21 *Administration Act of 1966 (16 U.S.C. 668dd) is amended*
 22 *by adding at the end the following:*

23 *“(5) The Secretary shall include, in the comprehensive*
 24 *conservation plan for each refuge under this subsection, a*
 25 *description of the activities that may be conducted in the*

1 *refuge, and the lands, waters, and facilities of the refuge*
 2 *that may be used, under concession contracts awarded*
 3 *under section 5(a).”.*

4 *(e) PRIOR AMENDMENTS NOT AFFECTED.—Nothing in*
 5 *this section shall be construed to affect any amendment*
 6 *made by section 6 of the National Wildlife Refuge System*
 7 *Administration Act of 1966, as in effect before the enact-*
 8 *ment of this Act, or any provision of law amended by such*
 9 *section.*

10 **SEC. 2. ANNUAL REPORT ON NATIONAL WILDLIFE REFUGE**
 11 **CONCESSIONS.**

12 *(a) REPORTING REQUIREMENT.—The National Wild-*
 13 *life Refuge System Administration Act of 1966 (16 U.S.C.*
 14 *668dd et seq.) is further amended by amending section 7*
 15 *(relating to amendments to another law, which have exe-*
 16 *cuted) to read as follows:*

17 **“SEC. 7. ANNUAL REPORT ON CONCESSION ACTIVITIES IN**
 18 **THE SYSTEM.**

19 *“(a) IN GENERAL.—The Secretary shall submit by De-*
 20 *cember 31 each year, to the Committee on Resources of the*
 21 *House of Representatives and the Committee on Environ-*
 22 *ment and Public Works of the Senate, a report on conces-*
 23 *sions activities conducted in the System.*

1 “(b) *CONTENTS.*—*Each report under this section shall*
2 *describe the following with respect to the period covered by*
3 *the report:*

4 “(1) *The number of refuge units in which conces-*
5 *sions activities were conducted.*

6 “(2) *The names and descriptions of services of-*
7 *fered in the System by each concessionaire.*

8 “(3) *A listing of the different types of legal ar-*
9 *rangements under which concessionaires operated in*
10 *the System, including contracts, memoranda of un-*
11 *derstanding, permits, letters of agreement, and other*
12 *arrangements.*

13 “(4) *Amounts of fees or other payments received*
14 *by the United States with respect to such activities*
15 *from each concessionaire, and the portion of such*
16 *funds expended for purposes under this Act.*

17 “(5) *An accounting of the amount of monies de-*
18 *posited into the fund established by section 401 of the*
19 *Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s),*
20 *popularly known as the refuge revenue sharing fund,*
21 *and of the balance remaining in the fund at the end*
22 *of the reporting period.*

23 “(6) *A listing of all concession contracts and*
24 *other arrangements that were terminated or not re-*
25 *newed within the reporting period.*

1 “(7) *A summary of all improvements in visitor*
2 *services in the System that were completed by conces-*
3 *sionaires and volunteers during the reporting period.*

4 “(8) *A summary of all backlogged repair and*
5 *maintenance, facility enhancement, and resource pres-*
6 *ervation projects completed by concessionaires and*
7 *volunteers during the reporting period.”.*

8 ***(b) DEADLINE FOR FIRST REPORT.—The Secretary of***
9 *the Interior shall submit the first report under the amend-*
10 *ment made by subsection (a) by not later than 1 year after*
11 *the date of the enactment of this Act.*

Union Calendar No. 204

108TH CONGRESS
1ST SESSION

H. R. 1204

[Report No. 108-347]

A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes.

NOVEMBER 4, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed